

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Rollie J. Finke,
Rose M. Finke,

Debtor(s).

Case No. 08-61126

Adversary No.:

Chapter 7 Case

Rollie J. Finke,

Plaintiff,

v.

United States Department of Education,
Defendant.

**COMPLAINT TO DETERMINE THAT
STUDENT LOAN IS DISCHARGEABLE**

Rollie J. Finke the above named plaintiff, through his attorney Logan Moore, alleges:

1. This Court has jurisdiction under 11 U.S.C. Section 523 and 28 U.S.C. Section 1334. This adversary proceeding relates to this case under Chapter 7 of the Bankruptcy Code, now pending in this Court. This is a core proceeding under 28 U.S.C. Section 157(b)(2)(I). This is an adversary proceeding to determine the dischargeability of a debt pursuant to Bankruptcy Rules 4007 and 7001(6), and 11 U.S.C. Section 523(a)(8).
2. On November 7, 2008, a voluntary petition for relief under chapter 7 of title 11, United States Code, was filed by the plaintiff, and a meeting of creditors was held on December 29, 2008.
3. The Defendant, United States Department of Education is a creditor of the plaintiff. To best of his knowledge Mr. Rollie Finke is indebted to the United States Department of Education in the amount of \$109,289.14 which includes interest and fees.
4. Mr. Rollie Finke obtained a bachelor's degree in Social Studies from Mankato State University in 1991. He also completed course work for a master's degree from Mankato State University, but discontinued his studies 1996. Mr. Finke's studies were to allow him to pursue a career as an educator. Mr. Finke is currently employed by District 206 located in and around Alexandria, Minnesota. Mr. Finke conducts adult education courses for District 206 which is a part time

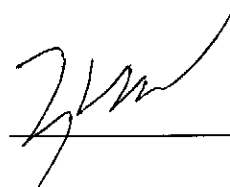
position. Mr. Finke also works part time for the post office as the relief post master. His average net income from both employers is \$1,730.47 a month. Mr. Finke is 44 years old.

5. The debtor's spouse and co-debtor is currently employed as a mental health worker through Mentor Network. Her average net income is \$1,186.42 a month. Ms. Finke is 57 years old. Ms. Finke has approximately \$59,907.89 in outstanding student loan debt.
6. According to Schedule J, the plaintiffs' reasonable monthly expenses total \$2,863.32 a month leaving an excess of \$53.57 a month. The Finkes do not foresee any increase in their income, and do not foresee a reduction in their expenses.
7. The Finkes do not own any real property and their combined retirement accounts total less than \$2,000.00. Their newest vehicle is nine years old and they possess minimal personal property. They do not foresee obtaining more lucrative employment.
8. According to the William D. Ford income contingent repayment plan, the plaintiffs' combined minimum payment would be \$374.97 per month. According to the plaintiffs' income and expense schedules filed with the Court, the plaintiffs have only \$53.57 after expenses on average. The plaintiffs list vehicle expenses of \$800.00 per month, but that expense is accurate given the maintenance costs of the older vehicles and the fact that they live in Kensington, Minnesota. Mr. Finke must commute to Alexandria and/or Glenwood Minnesota daily. Ms. Finke must commute to either Elbow Lake or Starbuck, Minnesota and many times between Elbow Lake and Starbuck before returning home to Kensington. Given the location of their jobs, there is not a more central location for the Finkes to reside, and rental costs would be more in the four communities in which they work if they relocated to one of them.
9. The plaintiff does not foresee a time when he will have disposable income to begin to meaningfully satisfy his student loan obligations.

WHEREFORE, the plaintiff respectfully prays for judgment determining the said debts be dischargeable; that this Court make such orders as are necessary to protect or effectuate such determination; and that plaintiffs pray for other and further relief as is just and necessary.

Velde Law Firm, Ltd.

Dated: 2/12/09



Logan Moore #312083
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Verification. I, Rollie J. Finke, the moving party named in the foregoing Complaint, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on Feb. 9, 2009.

Signed: 
Rollie J. Finke